

REMARKS

This communication is submitted in response to the Office Action dated January 24, 2006.

Claims 1-26 are pending in the subject patent application, with claims 7, 9, 10 and 11 being amended herewith. Claims 1-6, 8 and 12-26 have not been changed relative to their immediate prior version. Claims 27-32 were previously canceled. Claims 1-9 and 12-26 stand allowed by the Examiner.

The specification has been amended to replace a section heading thereof and to delete several paragraphs thereof that recite specific objects of the invention. The amendments to the specification are justified since the claimed invention is not limited to only those objects previously set forth in the specification.

Claims 7 and 9, which stand allowed by the Examiner, depend from claim 5 and have been amended merely for consistency with claim 5 in that claim 5 recites a "muscle" instead of "muscle structures". Accordingly, claims 7 and 9 have been amended to replace "muscle structures" with "muscle".

Support for the amendments to claims 7, 9, 10 and 11 is found throughout the specification as originally filed, and the amendments to the claims do not introduce any new matter.

Reconsideration of the subject application is respectfully requested in view of the foregoing amendments and the following remarks.

The rejection of claims 10 and 11 as being anticipated by Hacker is respectfully traversed for the following reasons.

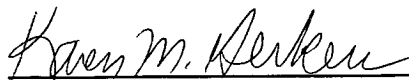
Independent claim 10 recites the step of "producing an output signal in response

to said monitoring including, producing an output signal indicative of artifact if non-repetitive electrical activity is detected at both the first and second electrodes, producing an output signal indicative of an electromyographic response if non-repetitive electrical activity is detected at the first electrode but not at the second electrode, or producing an output signal indicative of potentially inadequate anesthesia if repetitive electrical activity is detected at both the first and second electrodes.” Hacker fails to disclose any teachings concerning the detection of non-repetitive or repetitive electrical activity at the electrodes and fails to provide any teachings relating an output signal to the type of electrical activity detected at the electrodes. Hacker does not mention non-repetitive and repetitive electrical activity and does not disclose or suggest production of an output signal indicative of potentially inadequate anesthesia. Accordingly, it is submitted that independent claim 10 is clearly patentable over Hacker and should be allowed along with its dependent claim 11.

With respect to dependent claim 11, Hacker fails to disclose or suggest any relationship between the duration of the electrical activity detected at the electrodes and production of a particular output signal. It is submitted, therefore, that dependent claim 11 is clearly patentable over Hacker for the additional limitations recited therein as well as being allowable with independent claim 10.

In light of the foregoing, all of the claims in the subject application are submitted to be in condition for allowance. Action in conformance therewith is courteously solicited. Should any issues in the subject application remain unresolved, the Examiner is encouraged to contact the undersigned attorney.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 24, 2006.



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